

SENATE BILL 4 of First Extraordinary Session

By Rochelle

AN ACT to amend Tennessee Code Annotated, Title 48 and Title 67, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-812(c), is amended by deleting the section in its entirety and substituting instead the following:

(c) (1) In order to prevent the evasion of taxes or to clearly reflect income, the commissioner is given authority to:

(A) In the case of two (2) or more organizations, trades or businesses (whether or not incorporated and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner through her delegates may distribute, apportion or allocate gross income, items of income, deductions, credits or allowances between or among such organizations, trades or businesses or the owners thereof, if she determines that such distribution, apportionment or allocation is necessary to prevent evasion of taxes or to clearly reflect the income of any such person, organization, trade or business.

(B) In the case of two (2) or more incorporated or unincorporated entities owned or controlled directly or indirectly by the same owners (including but not limited to controlled groups of corporations), the commissioner through her delegates may require combined reports and, if applicable, the utilization of a

common apportionment formula covering all such entities engaged in the same or compatible lines of businesses or providing goods and services to each other.

(C) Disregard any entity created or transaction made which has no business purpose or is created or made with the primary purpose of evading the Tennessee franchise and excise tax or evading federal taxes with the result that the Tennessee franchise and/or excise taxes are reduced.

(D) Apply federal taxation concepts, including but not limited to, "assignment of income", "arms length" and "fair market value" to the dealings between or among persons identified in Internal Revenue Code 267(b).

(E) For purposes of this subsection, "controlled group" shall have the same meaning attributed to it by Internal Revenue Code §267(f).

(2) When a method of tax computation, allocation, apportionment or combined return has once been required, it shall continue until changed or discontinued by the commissioner or her delegates or with the written consent of the commissioner or her delegates.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.